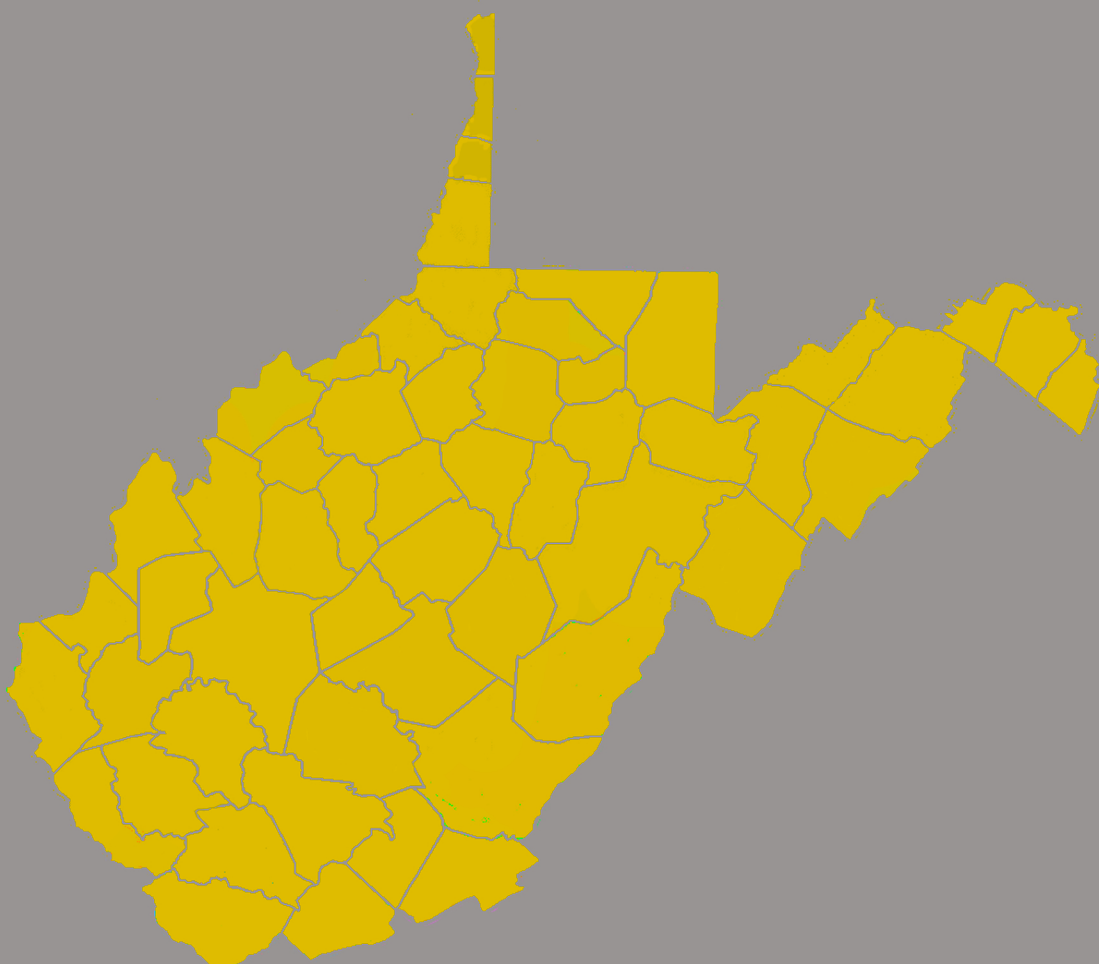


Attorney General

PATRICK MORRISEY'S



17 POINT PLAN

“PROMISES MADE, PROMISES KEPT”

Attorney General **PATRICK MORRISEY'S** **17 POINT PLAN** **"PROMISES MADE, PROMISES KEPT"**

Candidate Patrick Morrisey promised West Virginians that he would implement a wide-ranging 17-point plan to reform the Office of the Attorney General and advance key planks of his campaign platform during his first 100 days in office. With 100 days now officially behind him, Attorney General Morrisey is pleased to report on the progress of his plan and how, as a public officeholder, he has kept his promises to the citizens of West Virginia.

Attorney General Morrisey believes in accountability, which is why he issued the following progress report on the status of each of these initiatives. The following steps have been taken to implement Attorney General Patrick Morrisey's 17-point plan for the first 100 days in office.

Promise 1 - Eliminate Self-Promoting Trinkets: The Attorney General's Office will ban the use of trinkets bearing the Attorney General's name. This office isn't about using taxpayer resources for self-promotion. It's about putting the citizens of West Virginia first.

Actions Taken:

- ✓ On February 10, 2013, Attorney General Morrisey signed into effect his Trinket Policy (Policy # WVAGO-001), which generally prohibits the use of public funds for the purchase of self-promoting trinkets by the Office of the Attorney General. The Trinket Policy targets misuse of public funds by prohibiting the purchase of self-promoting trinkets unless the purchase is required by law or directly furthers the mission of the Office of the Attorney General. The policy strictly prohibits the use of the personal name or likeness of the Attorney General on any trinkets that must be purchased.
- ✓ In the spirit of further addressing the principles behind Morrisey's campaign promise to eliminate self-promoting trinkets, the Attorney General also issued two additional policies to:

- ✓ Limit the use of the Attorney General's name or likeness on many of the Office's consumer education materials (Policy # WVAGO-003); and,
- ✓ Prohibit the Attorney General's Office from using a state car in a parade.

Promise 2 - Send Settlement Monies Back to the State Legislature: Institute a policy to return future lawsuit settlement monies back to the State Legislature and the taxpayers.

Actions Taken:

- ✓ In January, the Attorney General's Office made significant changes to the language used in its settlement agreement forms so that all monies, outside of those funds necessary to recoup the cost of consumer protection outlays, are directed towards the West Virginia Legislature and taxpayers.
- ✓ Just two weeks into office, the Attorney General put the Office's new settlement language into effect as part of a \$113 million multi-state settlement with Lender Processing Services, Inc.
- ✓ During the first 100 days, the Office of the Attorney General has secured hundreds of thousands of dollars in settlement monies. As part of the Office's new settlement policy, none of those settlement monies are being directed to pet causes.
- ✓ Attorney General Patrick Morrissey worked with the Governor and members of the West Virginia Legislature during his first 100 days in office on a landmark reform effort (S.B. 1005) to fundamentally change the process in which the Office of the Attorney General handles state settlement funds.
- ✓ Through his work with the Governor and members of the West Virginia Legislature, Attorney General Morrissey has facilitated the return of millions of dollars in state settlement funds to the Legislature from the Consumer Protection Recovery Fund, while also securing the funding necessary to continue providing a robust Division of Consumer Protection, Compliance & Enforcement.

Promise 3 - End Taxpayer-Funded Campaigns: Prohibit the use of broad-based office advertising for at least six months prior to an election.

Actions Taken:

- ✓ On February 10, 2013, Attorney General Morrissey signed into effect his Advertising Policy (Policy # WVAGO-002), which establishes significant guidelines limiting the use of the Attorney General's name or likeness in publicly funded advertisements.
- ✓ Pursuant to the Advertising Policy, the Attorney General's personal name or likeness ***shall not*** be used or placed on broad-based advertising if the advertising

falls during an election period - which is defined as the time period between the deadline for filing for Attorney General and the General Election.

✓ This policy actually goes further than Morrissey's campaign promise, and expands the ban on broad-based advertising from the close of the candidate filing period.

✓ The Attorney General also signed into effect on February 10th a policy regarding Constituent Education Materials (Policy # WVAGO-003) to ensure that public funds are spent only on broad-based Constituent Education Material if it directly furthers the mission or policy of the Office of Attorney General. The policy also prohibits the use of the Attorney General's name or likeness on such materials unless the inclusion is purely incidental.

Promise 4 - Use Competitive Bidding for Hiring Outside Counsel: Initiate a competitive bidding policy for how the Office of Attorney General hires outside counsel. When the State hires outside counsel, it should know that it is receiving high-quality services at reasonable prices. A competitive bidding system will reduce political influences and restore integrity to the Attorney General's office.

Actions Taken:

✓ On March 20, 2013, the Attorney General approved a draft Outside Counsel Policy (Policy # WVAGO-004) to establish the use of a competitive bidding process when outside counsel are appointed to represent the state.

✓ The Attorney General's draft policy requires a written determination prior to any appointment of outside counsel to ensure that such appointments are both cost-effective and in the interest of the public.

✓ Outside counsel must be appointed through a competitive bidding process, unless certain limited circumstances apply, that requires the application of several factors before any appointment can be made.

✓ The draft Outside Counsel Policy furthers accountability and transparency in outside counsel hires by requiring the Office of the Attorney General to maintain strict supervision and control of all legal matters involving outside counsel and to post all relevant outside counsel documents to the Attorney General's web site.

✓ The Attorney General has established a forty-five day period to seek public comment and practical input from the public, the Office's clients and the State. After review of public comment, the final Outside Counsel Policy for the Office of the Attorney General shall go into effect on July 16th.

Promise 5 - Commence Full-Scale Audit of Past Attorney General Office

Expenditures: Commence a full-scale audit to examine past expenditures and current policies in place within the Office of Attorney General. Once the audit is complete, we will re-prioritize resources to areas that need them the most and ensure that all employees are acting in a manner consistent with the highest ethical standards.

Actions Taken:

- ✓ Shortly after taking office, Attorney General Morrissey and his staff began working with the West Virginia Legislative Auditor's Office on an audit of the Attorney General's Office.
- ✓ The Office of the Attorney General continues to work with the West Virginia Legislative Auditor's Office to determine whether past expenditures were spent appropriately and in accordance with court orders and state law.
- ✓ The Office is conducting its own exhaustive review of office policies and spending procedures to ensure that the Office of the Attorney General operates in a highly ethical manner moving forward.
- ✓ The audit process is ongoing. However, the Office has already instituted internal controls to refine the way certain expenditures are made.

Promise 6 - Collaborate with the Legislature to Enact Ethics Reforms: Work with the Legislature and Governor to ensure that the policies described under 1, 2, 3 and 4 are enacted by the Legislature. All future Attorneys General should abide by basic principles of ethics and the West Virginia Constitution.

Actions Taken:

- ✓ The Attorney General's Office worked closely with the Governor's Office and members of the Legislature to facilitate the introduction and passage of S.B. 1005, landmark reform legislation that returns millions of dollars of lawsuit settlement monies back to the Legislature and the taxpayers.
- ✓ The Attorney General's Office worked in collaboration with members of the House of Delegates on H.B. 3106, which would prohibit the use of public funds for self-promotional trinkets and broad-based advertisements.
- ✓ The Attorney General's draft Outside Counsel Policy was incorporated into proposed legislation (H.B. 3110) in the House of Delegates.
- ✓ The Office of the Attorney General worked with members of the House of Delegates to introduce a resolution (HJR 36) that would allow West Virginians to amend the state Constitution to limit any person serving as Attorney General to two consecutive terms.

✓ While not all of the proposed legislation passed, the Office of the Attorney General will continue working with lawmakers to ensure that all of these important measures are eventually passed into law.

Promise 7 - Take on the EPA: Review all existing lawsuits pending by Attorneys General and, after consultation with the Legislature and the Governor, determine which lawsuits against the federal government the State of West Virginia should join. The top priority will be focusing on Environmental Protection Agency (EPA) litigation.

Actions Taken:

- ✓ On February 11, 2013, Attorney General Morrissey sent a letter to President Barack Obama urging the President to take into account the interests of all Americans, including the people of West Virginia, when deciding whom to nominate as the new Environmental Protection Agency Administrator.
- ✓ In his letter to the President, Attorney General Morrissey informed President Obama that the Office of the West Virginia Attorney General would use every tool at its disposal to protect West Virginia's sovereign interests and fight federal overreach that harms the state's way of life.
- ✓ As part of Attorney General Morrissey's effort to identify potential environmental lawsuits affecting the state, the Office of the Attorney General has conducted an extensive review of all existing lawsuits brought by the states' attorneys general against the EPA, including, but not limited to the following:
 - ✓ Lawsuits challenging the EPA's Endangerment Finding, Tailpipe Rule, and Timing & Tailoring Rule.
 - ✓ Challenges to the EPA's "Cross-State Air Pollution Rule."
- ✓ The Office also has conducted an exhaustive docket search to identify other relevant environmental cases that may impact the state, and it has coordinated with officials in other states to identify any pending litigation in which West Virginia should participate.
- ✓ The Office of the Attorney General is working collaboratively with the West Virginia Department of Environmental Protection (WV DEP) regarding several matters that have a direct impact on the state's economy.
- ✓ The Attorney General's Office is currently drafting comments on several arbitrary aspects of an EPA-proposed rule that would invalidate certain West Virginia regulations concerning Startup, Shutdown, and Malfunction (SSM) regulations, and have a sweeping impact on West Virginia's energy resources.
- ✓ The Office of the Attorney General is working to ensure that arbitrary actions by the federal government do not derail the King Coal Highway - a vital economic development project in Southern West Virginia.

- ✓ Attorney General Morrissey is continuing to pursue litigation with several states and other interested parties challenging EPA air-emissions regulations that directly impact coal-fired power plants (*State of Michigan, et al v. Environmental Protection Agency*, Court of Appeals Docket # 12-1196). The regulations in question impose restrictive and unrealistic limits on emissions that could result in the closure of coal-fired power plants in West Virginia, Maryland, Ohio and Pennsylvania.
- ✓ Currently, the Office is working closely with WV DEP to provide legal assistance on a variety of regulatory matters to protect West Virginia's interests where it is potentially adverse to the federal government.
- ✓ The Attorney General's Office also is working with several states' attorneys general to ensure that the enormous potential for natural gas exploration in West Virginia and similarly situated states isn't negatively impacted by issues of federal overreach on the part of the EPA.

Promise 8 - Create an Office of Federalism & Freedom: Establish an Office of Federalism and Freedom to refocus some of the Office's priorities on challenging federal policies that have a tenuous nexus to law or the U.S. and West Virginia Constitutions.

Actions Taken:

- ✓ Attorney General Morrissey has initiated an informal working group of in-house attorneys, and is actively collaborating with other states' attorneys general, to take action on issues of federal overreach. Attorney General Morrissey decided to maintain this office in an informal manner, instead of creating a formal new department, so that he could save monies and utilize the Office's cross-cutting expertise on a variety of substantive issues relating to federal overreach.
- ✓ On top of fulfilling other daily responsibilities related to client demands and enforcement matters, the Office of the Attorney General has taken on a number of matters relating to federal overreach. Those matters include:
 - ✓ Joining with seven other states in a lawsuit challenging the constitutionality of certain provisions of the Dodd-Frank Act.
 - ✓ Joining with nineteen other states in filing a "friend of the court" brief in a case before the United States Supreme Court on the constitutionality of a New York statute that limits individual rights under the Second Amendment.
 - ✓ Assisting the West Virginia Department of Environmental Protection on a variety of EPA-related issues that negatively impact West Virginia's economy.
 - ✓ Actively reviewing environmental lawsuits for issues of federal overreach that may impact the state.
 - ✓ Continuing to pursue a multi-state challenge of the Environmental Protection Agency's Utility MACT Rule -- which could result in the closure of coal-fired power plants in West Virginia -- in the United States Court of

Appeals for the District of Columbia. *State of Michigan, et al v. Environmental Protection Agency*, Court of Appeals Docket # 12-1196.

- ✓ Joining with twelve other states in a letter asking the U.S. Department of Health & Human Services to adopt broader religious exemptions to insurance mandates imposed pursuant to the Affordable Care Act.
- ✓ Scrutinizing additional healthcare and religious liberty lawsuits brought by states against the federal government within the arena of federal overreach.
- ✓ Working with other states to ensure that West Virginia's natural gas prospects aren't negatively impacted by issues of federal overreach on the part of the EPA.

Promise 9 - Hold a "Jobs Summit": Hold a "Jobs Summit" to identify any and all overreaching regulations that may impair business growth in the State of West Virginia. Since the Office of Attorney General possesses the legal power to play a significant role in the regulatory process, we should identify the regulations that are having the most negative impact on economic growth.

Actions Taken:

- ✓ On April 17, 2013, Attorney General Morrisey held his Jobs Summit kickoff event in the Lower Rotunda of the State Capitol.
- ✓ More than fifty people attended the Jobs Summit kickoff event, including elected officials, job providers, business organizations and members of the public at large.
- ✓ As part of the kickoff event, Attorney General Morrisey engaged in a question & answer session on a variety of issues related to the Jobs Summit & Listening Tour, and also discussed the Office of the Attorney General's plans for the concluding Jobs Summit Finale to take place later in the year.
- ✓ Attorney General Morrisey laid out the goals of the Jobs Summit & Listening Tour, which include:
 - ✓ Identify and take steps to remove regulatory barriers that impeded job growth in the state.
 - ✓ Increase private sector employment in the state.
 - ✓ Attract new capital and investments to the state in order to foster vibrant manufacturing, service and construction sectors, to name just a few.
 - ✓ Enhancing West Virginia's competitiveness when compared to surrounding states.
 - ✓ Improve West Virginia's image to people and businesses located outside the state.
- ✓ Participants at the kickoff event included the West Virginia Chamber of Commerce, Associated Builders & Contractors - WV Chapter, West Virginia Coal

Association, and many others, who expressed their support of the goals of the Attorney General's Jobs Summit & Listening Tour.

✓ As part of the ongoing Jobs Summit & Listening Tour, Attorney General Morrisey will be traveling across the state to meet with stakeholders to discuss ways in which the Office of the Attorney General can help improve the state's business climate.

Promise 10 - Address Medicaid in a Meaningful Way: Work with the Governor and the Legislature to help address the budget shortfall facing the State's Medicaid Program. Through legal counseling, we will make recommendations about how the State can meet its financial challenges, while advancing new strategies to improve health care outcomes and lower health care costs for our State.

Actions Taken:

- ✓ Attorney General Patrick Morrisey has initiated substantive discussions with a number of senior state officials and members of the Legislature about how to improve the state's Medicaid Program.
- ✓ In these discussions, Attorney General Morrisey has outlined specific ideas about the legal mechanisms available to West Virginia to test innovative models to reduce Medicaid costs and enhance the quality of health care received by Medicaid beneficiaries.
- ✓ The Attorney General's Office has offered to help the West Virginia Department of Health & Human Resources (DHHR) submit several proposals to the Center for Medicare and Medicaid Innovation (CMMI) to test creative ways of improving West Virginia's Medicaid Program.
- ✓ Based upon his discussions with DHHR, Attorney General Morrisey will seek to establish a new memorandum of understanding with DHHR and its Inspector General to allow the Attorney General to pursue Medicaid fraud and abuse cases against small and medium-sized companies. The Attorney General's Office seeks to work collaboratively with the Inspector General's office to help eliminate fraud, waste and abuse wherever it exists.

Promise 11 - Crack Down on Medicaid Fraud: Crack down on Medicaid fraud by initiating a close review of Medicaid eligibility to ensure that precious government resources are being targeted to those who need it the most.

Actions Taken:

- ✓ Attorney General Morrisey held several meetings with the West Virginia Department of Health & Human Resources (DHHR) to discuss ways in which the Office of the Attorney General can work with WV DHHR and the Inspector General to ensure that Medicaid funding is spent appropriately.

- ✓ The Attorney General and staff have started working with members of WV DHHR on possible program integrity issues that would improve Medicaid fraud detection and prevention, including, but not limited to, benefit enrollment and eligibility issues.
- ✓ The Office of the Attorney General and WV DHHR also are looking at ways to collaborate on Medicaid fraud and control issues from a civil perspective, so that WV DHHR can better pursue low-dollar cases in state court.
- ✓ The Attorney General's Office will continue to work closely with WV DHHR on Medicaid fraud prevention issues that will hopefully save the state tens of millions of dollars in waste and abuse.

Promise 12 - Fight Prescription Drug Abuse: Request new prosecutorial authority from the Legislature to help pursue criminals who facilitate our prescription drug abuse problems in West Virginia. Prescription drug abuse cuts across county lines. As such, the Attorney General should play a far more proactive role coordinating prosecutions across the 55 counties.

Actions Taken:

- ✓ Attorney General Morrisey has initiated a dialogue with state lawmakers to discuss how additional prosecutorial powers would help the Office of the Attorney General tackle prescription drug abuse in West Virginia. The Attorney General has set forth several compelling reasons for such prosecutorial powers, which include the ability to coordinate the state's prosecutorial efforts related to prescription drugs.
- ✓ On March 11, 2013, Attorney General Morrisey joined with forty-seven other attorneys general in a letter encouraging the U.S. Food and Drug Administration to make generic pain pills harder to abuse. The letter highlighted the significant dangers of prescription drug abuse, and asked the U.S. Food and Drug Administration to take steps to ensure that generic drugs are designed with tamper-resistant features.
- ✓ The Office of the Attorney General is partnering with the Division of Protective Services to participate in the sixth National Prescription Drug Take-Back Day on April 27th at the State Capitol. The event, which is spearheaded by the federal Drug Enforcement Administration, allows for the safe collection and disposal of unused medication in an effort to prevent potential drug abuse.
- ✓ The Office of the Attorney General is currently investigating the role that various entities play in the prescription drug abuse epidemic and how West Virginia can better control the supply and demand side of this terrible problem.

Promise 13 - Prosecute Election Law Fraud: Request that the Legislature clarify the role of the Attorney General and the Secretary of State so that the Attorney General gains authority to prosecute violations of ethics and election law fraud and that the Attorney General plays a more proactive role in election law policy.

Actions Taken:

- ✓ On April 11, 2013, Attorney General Morrissey sent a letter to leadership in both the state Senate and House of Delegates requesting that the Legislature clarify the role that the Attorney General can play in helping the Secretary of State enforce state election laws.
- ✓ The Attorney General has established the position of Public Integrity Officer within the Office of the Attorney General to help collaborate with county prosecutors and other state entities on corruption and election fraud cases.
- ✓ The Office of the Attorney General has been asked to provide advice and assistance to the West Virginia Ethics Commission on several matters involving public officials.

Promise 14 - Educate West Virginians on Healthcare: Work with the Department of Health and Human Resources to conduct consumer education forums about the State's Medicaid Program, Medicare enrollment issues, and any other existing health care programs in place.

Actions Taken:

- ✓ On April 18, 2013, Attorney General Morrissey partnered with the West Virginia Department of Health and Human Resources (WV DHHR) to host the first in a series of telephone town hall meetings aimed at educating consumers and seniors on important issues regarding West Virginians' rights and responsibilities on healthcare matters.
- ✓ Nearly 1,700 seniors participated in the Attorney General's telephone town hall event, in which the Attorney General and a representative from WV DHHR answered questions on a number of topics, including, but not limited to the following:
 - ✓ Funding for Medicare and Medicaid Services;
 - ✓ Prescription Drug Coverage under Medicare Part B;
 - ✓ Subsidy Programs Available for West Virginians;
 - ✓ Open-enrollment for Health Care Programs;
- ✓ Attorney General Morrissey and staff have also met with WV DHHR to discuss additional ways in which they can work together to better educate the public on important healthcare issues.

✓ The Attorney General's Office will be planning additional informational sessions in the upcoming months. As a separate matter, the Office will be sending letters soon to the Obama administration about the problems consumers are expected to see under the Affordable Care Act.

Promise 15 - Defend Second Amendment Rights: Accelerate state reciprocity agreements on concealed carry permits to advance our Second Amendment protections.

Actions Taken:

✓ S.B. 369 was passed by the Legislature on April 13, 2013, and is expected to be signed into law by the Governor. As a result of the bill's passage, the Office of the Attorney General is preparing to communicate with states in the coming weeks to seek additional reciprocity agreements.

✓ Attorney General Morrissey's staff worked closely with the Legislature on S.B. 369, which will increase reciprocity rights for West Virginians and improve the ability of the Attorney General's Office to enter into future reciprocity agreements.

✓ On April 4, 2013, Attorney General Morrissey sent a letter to leadership in the House of Delegates encouraging action on S.B. 369. Attorney General Morrissey explained how the legislation would advance the Second Amendment protections afforded to all West Virginians by helping eliminate existing impediments to obtaining additional reciprocity agreements with other states.

✓ The Office of the Attorney General also has collaborated with the Legislature on other proposed legislation to ensure that existing reciprocity agreements aren't negatively impacted.

✓ The Attorney General's Office joined with nineteen other states in filing a "friend of the court" brief in a case before the United States Supreme Court on the constitutionality of a New York statute that limits individual rights under the Second Amendment.

Promise 16 - Join Religious Liberty Lawsuits: Place West Virginia on religious liberty lawsuits.

Actions Taken:

✓ The Office of the Attorney General has reviewed all pending lawsuits involving states relating to the contraceptive insurance mandate imposed pursuant to the Affordable Care Act.

✓ On March 26, 2013, Attorney General Morrissey joined with twelve other state attorneys general in asking the U.S. Department of Health & Human Services (HHS) to adopt broader religious exemptions to the contraceptive insurance mandate.

- ✓ The public comment from Attorney General Morrissey and twelve other attorneys general questions the failure of proposed federal amendments to sufficiently address faith and conscience-based objections and for entirely ignoring the concerns of for-profit business owners who object to providing insurance coverage for FDA-approved contraceptive methods and sterilization procedures, including the “morning-after pill” and the “week-after pill” as part of the Affordable Care Act.
- ✓ The Attorney General’s Office will be working with other attorneys general in the near future to evaluate the response from HHS to public comment, and take appropriate action to ensure that West Virginians’ religious liberty rights aren’t infringed upon.
- ✓ The Attorney General’s Office will evaluate any response from HHS to the state’s comments before it determines how to proceed to see whether we can avoid litigation.

Promise 17 - Evaluate Potential Ethics Violations: After the audit referenced under number 5 is complete and all employees within the Office are interviewed, determine whether disciplinary action is warranted for any past behavior. We must ensure that all employees of the Office of Attorney General follow the rule of law and abide by the strictest ethical standards.

Actions Taken:

- ✓ Attorney General Morrissey is in the process of meeting with staff to examine any problematic activities that have occurred in the Office of the Attorney General, and has been cooperating with the West Virginia Legislative Auditor’s Office to address past office issues as well.
- ✓ The Office of the Attorney General is conducting its own separate internal review, and will release any and all final conclusions after the completion of its review.
- ✓ The Office is currently awaiting additional findings of the audit, which will also be taken into consideration with respect to potential discipline.